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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,350	07/15/2004	Mario Kustosch	R 41892	7888

7590

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EXAMINER

NGUYEN, THU V

ART UNIT

PAPER NUMBER

3661

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/501,350	<b>Applicant(s)</b> KUSTOSCH, MARIO	
	<b>Examiner</b> Thu Nguyen	<b>Art Unit</b> 3661	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/15/04</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The preliminary amendment filed on July 15, 2004 has been entered. By this amendment, claims 1-9 have been canceled, claims 10-18 have been added and claims 10-18 are now pending in the application.

#### ***Information Disclosure Statement***

1. The information disclosure statement filed July 15, 2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. Specifically, a copy of document DE 196 54 769 is not provided.

The disclosed information has been placed in the application file, but the information referred to therein has not been considered.

#### ***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

The specification does not disclose "the interface" disclosed in claim 10 line 5, 7 and in claim 18, lines 5, 7, and 9. "interface" normally means a device connecting one device to another device. What element is considered an "interface" in the present application?

The specification does not disclose the differences between the two input quantities (in claims 10 and 18), which are, as described in claim 11, as the two acceleration quantities. It is

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not clear if the two acceleration quantities represent the same function such as the same desired acceleration; or the same target acceleration. If the two quantities represent the same function, it is not clear why the two quantities are needed and used, and it is not clear how the two quantities are determined.

***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-18 are rejected under 35 U.S.C. 101 because claim 10-18 do not disclose how the driving speed of the vehicle is controlled. The claims just disclose inputting inputs and base quantities and adjusting the input quantities, however, the claims, especially claim 10 and 18, do not teach practical and useful application of the inputs and base quantities.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 16-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. In claim 16, lines 4-5, the claimed “when there is a drop below this base value” is ambiguous. It is not clear in what element the drop occurs (it is not clear if it is the first acceleration, or if it is the second acceleration that drops)
- b. In claim 17, lines 2-3, the claimed “are coupled to a resulting input value” is ambiguous because the input quantities and the input value are numbers. It is not clear how numbers could be coupled.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 10-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bellinger et al (US 6,021,370).

As per claim 10, Bellinger teaches a method for controlling the driving speed of a vehicle, the method comprises: generating input quantities from at least two functions for influencing the vehicle speed (vehicle acceleration and engine acceleration) (col.9, lines 40-41); providing the input quantities and base quantities AL (col.11, lines 16-17; col.12, lines 50-54) for the two functions. Bellinger does not explicitly disclose inputting the quantities to an interface. However, Bellinger teaches either determining the quantities to controller 74 (fig.3A) for controlling the vehicle speed, including an interface controller to process data before transmitting

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the data to another controller would have been well known. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a well known interface in the system of Bellinger for calculating the vehicle speed before sending the resulting data for controlling the actuators of the vehicle in order to reduce the work load to the actuator controller and to improve processing speed to the system.

As per claim 11, Bellinger teaches acceleration quantities (col.11, line 15; col. 12, line 29).

As per claim 12-13, Bellinger teaches limiting the input to a limit value AL (col.11, lines 20-24; col.12, lines 57-60). Moreover, using an electronic calculating device (a mixer) for limiting a specific quantity would have been well known.

As per claim 14-16, Bellinger teaches determining the limit value by different techniques such as using predefined vehicle acceleration function, etc. (col.7, lines 45-67; col.8, lines 1-62), and allowing the user to enable or disable acceleration limitation (col.19, lines 61-67), determining limit values based on a predetermined value, activating limiting only when the speed limiting function is active, and performing acceleration or deceleration depending on certain thresholds would have been both well known and obvious matter of design choice.

As per claim 17, activating an actuating member such as fuel pump, brake, etc. for controlling acceleration or deceleration of a vehicle would have been well known.

As per claim 18, refer to claims 10 and 17 above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Nguyen whose telephone number is (571) 272-6967. The examiner can normally be reached on T-F (7:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 18, 2006



**THU V. NGUYEN**  
**PRIMARY EXAMINER**